IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 548/2006

(Pradeep Kumar and Anr. Vs. State of Rajasthan)

Date of Order :::: 15.11.2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. V.S. Choudhary, for the petitioners
Mr. Ashok Upadhyaya, Public Prosecutor.

BY THE COURT:

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 9.3.2006 passed by the Judicial Magistrate, First class, Rajgarh, Churu (for short 'the trial court' hereinafter) whereby an application filed by the petitioners seeking to examine the photostate copy of diary alleged to have been written by the complainant by the hand-writing expert. The trial court by a well reasoned order dismissed the application on the ground that what has been stated in the alleged diary has no relevancy with the charges against the petitioners.

I have gone through the photostate copy of the alleged diary as to whether it is written by the complainant or not is the question of fact but has no relevancy with the issue before the trial court that is charge against the present petitioners.

In the circumstances, therefore, the trial court was justified in declining to get the photostate copy of the alleged diary examined by the hand-writing expert. It cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of any court. It is always open for the petitioners to agitate this issue at the appropriate stage when they enter into defence.

The misc. petition is, therefore, dismissed.

(H.R.PANWAR)J.

Rm/